



Council of the European Union  
General Secretariat

**Brussels, 17 May 2021**

**WK 6463/2021 INIT**

**LIMITE**

**ENER**

*This is a paper intended for a specific community of recipients. Handling and further distribution are under the sole responsibility of community members.*

## **CONTRIBUTION**

From:	General Secretariat of the Council
To:	Working Party on Energy
Subject:	AT comments on Articles 11-31 and Annex V of the revised TEN-E Regulation (ST 8208/1/21 REV 1)

Delegations will find in the annex the AT comments on Articles 11-31 and Annex V of the revised TEN-E Regulation (ST 8208/1/21 REV 1).



Council of the  
European Union

Brussels, 29 April 2021  
(OR. en)

**Interinstitutional File:**  
**2020/0360(COD)**

8208/1/21  
REV 1

LIMITE

ENER 144  
TRANS 244  
RELEX 365  
ECOFIN 390  
ENV 262  
CODEC 599

#### NOTE

From:	General Secretariat of the Council
To:	Delegations
No. Cion doc.:	14088/20 + ADD1-ADD5
Subject:	Presidency revised proposal for the TEN-E Regulation

Delegations will find in annex the **corrected** Presidency revised proposal for the TEN-E Regulation.

In the current revision: new text is **bold underline**, deleted text is either ~~striketrough~~ or **~~bold striketrough~~**. Text added in the previous revisions is **bold** and deletions made are replaced with [ ].

Delegations are invited to send written comments to the Presidency and to the Secretariat in copy, [energy@consilium.europa.eu](mailto:energy@consilium.europa.eu):

The deadline for comments is:

- **May 6<sup>th</sup>** for articles 1-3 and Annexes I, II and III;
- **May 11<sup>th</sup>** for articles 4-10 and Annexes IV and VI;
- **May 13<sup>th</sup>** for articles 11-31 and Annex V.

Formatted: Highlight

**AT COMMENTS**

Formatted: Highlight

## CHAPTER IV

### CROSS-SECTORAL INFRASTRUCTURE PLANNING

#### Article 11

##### Energy system wide cost-benefit analysis

1. By [16 November 2022], the European Network of Transmission System Operators (ENTSO) for Electricity and the ENTSO for Gas shall publish and submit to Member States, the Commission and the Agency their respective **draft** methodologies, including the network and market modelling, for a harmonised energy system-wide cost-benefit analysis at Union level for projects of common interest **and projects of mutual interest** falling under the categories set out in points (1)(a), (1)(c) and (e) and point (3) of Annex II. ~~For the other categories of Annex II the European Commission shall assign responsibilities for developing these methodologies, which shall be compatible with the methodologies developed by the ENTSO for Electricity and the ENTSO for Gas in terms of monetised benefits and costs. The methodologies shall be developed in a transparent manner, including an extensive consultation of all relevant stakeholders.~~

Those methodologies shall be applied for the preparation of each subsequent Union-wide ten-year network development plans developed by the ENTSO for Electricity or the ENTSO for Gas pursuant to Article 8 of Regulation (EC) No 715/2009 and Article 30 of Regulation (EU) 2019/943. Those methodologies shall be drawn up in line with the principles laid down in Annex V and be consistent with the rules and indicators set out in Annex IV. **They shall be amended after submission of the energy market and network model referred to in paragraph 8.**

Prior to submitting their respective methodologies, the ENTSO for Electricity and the ENTSO for Gas shall conduct an extensive consultation process involving at least the organisations representing all relevant stakeholders, including the entity of distribution system operators in the Union ('EU DSO entity'), [ ] **the entities with assigned responsibilities for developing methodologies according to paragraph 7 of this article** and, where it is deemed appropriate the national regulatory authorities and other national authorities.

**Commented [AT1]:** Firstly, on Art 11 (12 and 13 as well), AT would like to refer to previous comments regarding the design of the process for the cost benefit analysis (CBA) that should be conducted in a thorough and transparent manner for all categories.

Secondly, concerning point (3) of Annex II on hydrogen, AT believes that this regulation should not preempt the upcoming regulatory framework. Responsibilities for CBA in this category should not automatically be given to ENTSO-G.

We kindly ask the Presidency for further proposals in this regard, to ensure that this regulation does not in any way preempt upcoming legislation.

2. Within three months of the receipt of the methodologies together with the input received in the consultation process and a report on how it was taken into account, the Agency shall **provide an opinion and complete an extensive consultation on the submitted draft methodologies.** [ ]  
**Within three months of the receipt of the methodologies, Member States and the European Commission may deliver an opinion on the methodologies to the Agency and, as applicable, the ENTSO for Electricity or the ENTSO for Gas.**

3. The ENTSO for Electricity and the ENTSO for Gas, shall update the methodologies taking due account of the Agency's opinion **(including Commission and Member states opinion)**, as referred to in paragraph 2. [ ]

[ ]

4. *(ex point 5)* No later than ~~three-six~~ months ~~after of the day of~~ receipt of the [ ], **updated draft methodologies** ~~opinion, received under paragraph 2, [ ] the ENTSO for Electricity and the ENTSO for Gas shall adapt their respective methodologies taking due account of the opinions received from Member States and the Commission [ ], and submit them to the Agency shall adopt a decision on each of the methodologies, whether to for final approval them or to amend them or request amendments to them, and publish it on the Agency's website.~~

**4a. Within the deadline set by the Agency's request for amendments, the ENTSO for Electricity or the ENTSO for Gas shall submit the amended CBA methodology to the Agency for its approval.**

[ ] **The Agency shall issue its decision within [two] months from the day of the ENTSO for Electricity and ENTSO for Gas submissions.**

[ ]

5 *(ex point 8)* Within two weeks of the approval by the Agency [ ] in accordance with paragraphs [ ] 4, the ENTSO for Electricity and the ENTSO for Gas shall publish their respective methodologies on their websites. They shall publish the corresponding input data and other relevant network, load flow and market data in a sufficiently accurate form [ ] **subject to restrictions under national law and relevant confidentiality agreements. The Commission and the Agency shall ensure the confidential treatment of the data received, by themselves and by any party carrying out analytical work for them on the basis of those data.**

**Commented [AT2]:** In this regard, we refer to our last comments:

AT welcomes that the approval of the CBA methodologies according to para 1 of Art 11 should be made by the Agency. However, as said in the EWP, AT proposes further wording changes to alter the steps in the governance of the process to enhance streamlining and give the Agency all possible approval options available in line with the Clean Energy package (e.g. Art 27 para 3 Electricity Regulation regarding adequacy methodologies). The deletion is also due to the fact that already in Art para 3, ENTSOs are requested to adapt their methodologies. Moreover, a new para 4a needs to be added in case ENTSOs are requested to deliver amendments.

**Commented [AT3]:** This sentence should be altered, according to the process steps that are finally designed in the Regulation.

6. (ex point 9) The methodologies shall be updated [ ] regularly following the procedure described in paragraphs 1 to [ ] 4. The Agency, on its own initiative or upon a duly reasoned request by national regulatory authorities or stakeholders, and after formally consulting the organisations representing all relevant stakeholders and the Commission, may request such updates and improvements and communicate it to the Commission with due justification and timescales. The Agency shall publish the requests by national regulatory authorities or stakeholders and all relevant non-commercially sensitive documents leading to a request from the Agency for an update or improvement.

**6-87.) For projects of common interest and projects of mutual interest falling under the categories (1b), (1d), (2), and (4) and 5 of Annex II, methodologies for a harmonised energy system-wide cost-benefit analysis at Union level shall be elaborated. The European Commission shall assign responsibilities to other entities for developing these methodologies, which shall be compatible with the methodologies developed by the ENTSO for Electricity and the ENTSO for Gas in terms of monetised benefits and costs. The Agency, with the support of National Regulatory Authorities, shall promote consistency of these methodologies with the methodologies elaborated by ENTSO for Electricity and the ENTSO for Gas. The methodologies shall be developed in a transparent manner, including extensive consultation of Member States and of all relevant stakeholders.**

**The entities responsible shall publish and submit to Member States, the Agency and the Commission their respective draft methodologies by [16 November 2022]. Those methodologies shall be drawn up in line with the principles laid down in Annex V and be consistent with the rules and indicators set out in Annex IV.**

**8. Prior to submitting their respective methodologies, the entities with assigned responsibilities for developing methodologies according to paragraph 7 of this article shall conduct an extensive consultation process involving at least the organisations representing all relevant stakeholders, including the ENTSO for Electricity, the ENTSO for Gas, the entity of distribution system operators in the Union ('EU DSO entity'), and, where it is deemed appropriate the national regulatory authorities and other national authorities.**

**9. Within three months of the receipt of the methodologies together with the input received in the consultation process and a report on how it was taken into account, the Agency shall provide an opinion to the entities with assigned responsibilities according to paragraph 7 of this article, the Member States, and the Commission, to ensure consistency of these methodologies with the methodologies elaborated by the ENTSO for Electricity and the ENTSO for Gas.**

Formatted: Font: Italic, Highlight

Formatted: Font: Italic, Highlight

**Commented [AT4]:** AT welcomes that according to the PCY proposal in para 7, responsibilities shall now be assigned by the EC to "other entities" for developing CBA methodologies for the categories (1b), (1d), (2), and (4) and 5 (? see below). This corresponds with our AT position that all categories must be subject to a thorough and transparent CBA (and not a case-by-case assessment).

However, we would ask the PCY for clarification and request further corresponding wording proposals on the process for these CBA methodologies developed by "other entities" because a few issues and questions are left untreated in the PCY proposals:

- It is not defined which other entities can give opinions on these CBAs and how these opinions need to be taken into account –this should be clarified in further wording.
- As well, it is unclear who will approve these CBA methodologies developed by assigned entities.
- Moreover, on the last category 5 CO<sub>2</sub>, it seems that this category should also be added under the categories for which assigned entities should be responsible for CBA methodologies. – If not, how is this category going to be assessed?

AT actually submitted wording proposals that treat these issues and questions in previous AT comments. We therefore submit our proposals again here to serve as an input for further proposals by the PCY.

Formatted: Font: Italic, Highlight

Formatted: Font: Italic, Highlight

10. Within three months of the receipt of the methodologies, the Member States may deliver an opinion on the methodologies to the entities with assigned responsibilities according to paragraph 7 of this article and to the Commission.

11. No later than six months of the day of receipt of the opinion by the Agency, the entities with assigned responsibilities according to paragraph 7 of this Article shall adapt their respective methodologies taking due account of the Agency's and Member States' opinion, and submit them to the Commission for approval. The Commission shall adopt a decision on each of the methodologies, whether to approve them or to amend them or request amendments to them, and publish it on the Commission's website.

11a. Within the deadline set by the Commission's request for amendments, the entities with assigned responsibilities according to paragraph 7 of this article shall submit the amended CBA methodology to the Commission for its approval.

12. Within two weeks of the approval by the Commission in accordance with paragraph 11, the entities with assigned responsibilities according to paragraph 7 of this article shall publish the respective methodologies on their websites. They shall publish the corresponding input data and other relevant network, load flow and market data in a sufficiently accurate form subject to restrictions under national law and relevant confidentiality agreements. The Commission shall ensure the confidential treatment of the data received, by themselves and by any party carrying out analytical work for them on the basis of those data.

13. The methodologies shall be updated regularly following the procedure described in paragraphs 7 to 12.

7. (ex point 10) Every ~~three~~ **two** ~~four~~ years, the Agency shall establish and make publicly available a set of indicators and corresponding reference values for the comparison of unit investment costs for comparable projects of the infrastructure categories included in points (1), (2), and (3) of Annex II [ ]. Those reference values may be used by the ENTSO for Electricity and the ENTSO for Gas for the cost-benefit analyses carried out for subsequent Union-wide ten-year network development plans. The first of such indicators shall be published by [1 November 2023] **to the extent that data is available to calculate robust indicators and values. For the other categories of Annex II the indicators shall be developed and published by [1 November 2024].** Regulated Infrastructure owners, system operators and third-party promoters are obliged to provide the requested data to the national regulatory authorities and to the Agency.

**Commented [AT5]:** AT proposes four year-intervals in line with the TYNDP cycle (i.e. 1 November 2023 for the first set of indicators).

**Formatted:** Font: Italic, Highlight

**Commented [AT6]:** AT is critical towards this condition of "to the extent that data is available..." – as there is an obligation to provide data to NRAs and the Agency mentioned in the following sentence, there should not be any conditionality. What is the rationale behind this addition? Moreover, the date should be aligned to the TYNDP cycle.

**Formatted:** Font: Bold, Italic, Highlight

8. (ex point 11) By [31 December 2024], the ENTSO for Electricity and the ENTSO for Gas, **in cooperation with the entities responsible for developing the methodologies set out in points (1), (b), 1 (d), (2), (4), and (5) of Annex II** shall jointly submit to the Commission and the Agency a consistent and interlinked energy market and network model including electricity, gas, [ ] CO<sub>2</sub> and hydrogen transmission infrastructure as well as storage, ~~LNG~~ and electrolyzers, covering the energy infrastructure priority corridors and the areas drawn up in line with the principles laid down in Annex V.

**Commented [AT7]:** As the CBA methodologies for other categories will be developed by other entities in line with Art 11 para 1, the latter entities should cooperate with ENTSOs in developing the consistent and interlinked energy market and network model.

9. (ex point 12) The consistent and interlinked model referred to in paragraph [ ] 8 shall cover at least the respective sectors' interlinkages at all stages of infrastructure planning, specifically scenarios, **technologies and spatial resolution**, infrastructure gaps identification in particular with respect to cross-border capacities, and projects assessment.

10. (ex point 13) After approval of the consistent and interlinked model referred to in paragraph [ ] 8 by the ~~Commission~~ **Agency** in accordance with the procedure set out in paragraphs 1 to [ ] 4, it shall be included in the methodologies referred to in paragraph 1.

**Commented [AT8]:** The Agency should approve.

**11. Every four years starting from its approval according to paragraph 10, the interlinked model shall be updated according to the procedure described in paragraph 8 to 10.**

## Article 12

### Scenarios for the ten-Year Network Development Plans

1. By [31 July 2022], the Agency, after having conducted an extensive consultation process involving the Commission, **the Member States** and at least the organisations representing all relevant stakeholders, including the ENTSO for Electricity, the ENTSO for Gas, **the entities with assigned responsibilities according to paragraph 7 of Article 11** and the Union DSO entity, [ ] shall publish the framework guidelines for the joint scenarios to be developed by ENTSO for Electricity and ENTSO for Gas. Those guidelines shall be regularly updated as found necessary **and shall define standards for a transparent, non-discriminatory and robust elaboration of the scenarios taking into account best practices in the field of network development planning infrastructures assessment**. The guidelines shall **also take into account energy system integration priorities**, [ ] the energy efficiency first principle and ensure that the underlying ENTSO for Electricity and ENTSO for Gas scenarios are **fully consistent in line** with the **Union's 2030 climate and energy targets and the climate neutrality objective by 2050** [ ] and take into

**Commented [AT9]:** On Art 12, AT wants to refer to previous comments (that will also be submitted again in writing).

It should be added that also the entities mentioned above should play a role in the Scenarios. Moreover, scenarios need to be consistent with EU goals. The Commission should approve Scenarios because of their policy dimension.

**Commented [AT10]:** AT suggests that the guidelines shall be "consistent" with the Union's policies, because the timeframes of EC and TYNDP scenarios might not be the same – so they should be consistent in the sense of being compatible to allow for comparison between scenarios with different underlying assumptions. In line with our recent request to the Commission, we support the establishment of a 100% renewable energy scenario and we propose the addition of this part of the sentence. (as LU)

account the latest available Commission scenarios to achieve them, as well as, when relevant, the National Energy and Climate Plans.

2. The ENTSO for Electricity and ENTSO for Gas shall follow the Agency's framework guidelines when developing the joint scenarios to be used for the Union-wide ten-year network development plans.

3. The ENTSO for Electricity and ENTSO for Gas shall invite the organisations representing all relevant stakeholders, including the Union DSO entity [ ], to participate in the scenarios development process.

4. The ENTSO for Electricity and the ENTSO for Gas shall publish and submit the draft joint scenarios report to the Agency, ~~the Member States~~ and entities with assigned responsibilities according to paragraph 7 of Article 11 and the Commission for their opinion.

5. Within three months from the receipt of the draft joint scenarios report together with the input received in the consultation process and a report on how it was taken into account, the Agency, the Member States and the entities with assigned responsibilities according to paragraph 7 of Article 11 shall submit their ~~its~~ opinion **including recommendations for amendments** to the ENTSO for Electricity, ENTSO for gas, ~~Member States~~ and the Commission.

6. ~~The Commission, giving due consideration to the Agency and Member States' opinion [ ], shall submit its opinion to the ENTSO for Electricity and the ENTSO for Gas.~~ **The Electricity coordination Group and Gas coordination Group may examine the draft joint scenarios.**

7. [ ] The ENTSO for Electricity and the ENTSO for Gas shall adapt their joint scenarios report, taking due account of the opinion of the Agency's ~~opinion and~~ Member States and and entities with assigned responsibilities according to paragraph 7 of Article 11 and submit the updated report to the Commission for its approval. The Commission shall approve or request amendments on the joint scenarios report.

7a. Within the deadline set by the Commission's request for amendments, the ENTSO for Electricity and the ENTSO for Gas shall submit the amended scenarios to the Commission for its approval.

8. Within two weeks of the approval of the joint scenarios report by the Commission in accordance with paragraph 7, the ENTSO for Electricity and the ENTSO for Gas shall publish their joint scenarios report on their websites. They shall publish the corresponding input and output data in a

**Formatted:** Font: (Default) +Headings CS (Times New Roman), Bold, Italic, Highlight

**Commented [AT11]:** In line with the above and as said in EWP, the first sentence of para 6 should be deleted - the opinion of the Commission (EC) on the draft scenario report should be omitted as the EC approves the draft scenarios.  
On the new role for the Electricity and Gas coordination group, what is envisaged in practice?

sufficiently **clear and** accurate form, **for a third party to reproduce the results**, taking due account of the national law and relevant confidentiality agreements **and sensitive information**.

### Article 13

#### Infrastructure Gaps Identification

1. Every two years the ENTSO for Electricity and the ENTSO for Gas shall publish [ ] the infrastructure gaps reports developed within the framework of the Union-wide ten-year network development plans.

When assessing the infrastructure gaps the ENTSO for Electricity and the ENTSO for Gas shall **base their analysis on all the scenarios established under Article 12**, implement the energy efficiency first principle and consider with priority all relevant [ ] solutions **which do not require new infrastructure (i.e. but not limited to, demand-side management, market arrangement solutions, implementation of digital solutions, renovation of buildings) and recommend their implementation as a priority solution whenever they are judged more cost-efficient on a system wide perspective than the construction of new supply side infrastructure. When considering new infrastructures solutions, the infrastructures gaps assessment shall take into account all relevant costs, including network reinforcements.**

Prior to [ ] **publishing** their respective reports, the ENTSO for Electricity and the ENTSO for Gas shall conduct an extensive consultation process involving all relevant stakeholders, including **the entities with assigned responsibilities according to paragraph 7 of Article 11**, the Union DSO entity, [ ] and all the Member States representatives part of the priority corridors defined in Annex I.

2. The ENTSO for Electricity and the ENTSO for Gas shall submit their respective draft infrastructure gaps report to the Agency **and the Commission and Member States** for **its** their opinion.

~~3. Within three months following receipt of the infrastructure gaps report together with the input received in the consultation process and a report on how it was taken into account, the Agency shall submit its opinion to the ENTSO for Electricity or ENTSO for Gas and the Commission and Member States.~~

~~4. The Commission, with Member States, considering the Agency's opinion referred to in paragraph 3, shall draft and submit its opinion to the ENTSO for Electricity or the ENTSO for Gas.~~

**Commented [AT12]:** As said in the EWP: In Art 13, these activities are already being developed by the ENTOSs in the framework of the TYNDPs and are already subject to the ACER opinions on the TYNDPs. Therefore, we question the added value of this article. The paras 3, 4, 5 should be deleted in accordance with the changes already made before.

**Commented [AT13]:** As said in the EWP: In Art 13, the paras 3, 4, 5 should be deleted in accordance with the changes already made above. These activities are already being developed by the ENTOSs in the framework of the TYNDPs and are already subject to the ACER opinions on the TYNDPs. The processes of Articles 13(2), 13(3), 13(4) and 13(5) seem too long, cumbersome and not compatible with the biennial TYNDPs.

~~5. The ENTSO for Electricity and the ENTSO for Gas shall adapt their infrastructure gaps reports taking due account of the Agency's opinion and in line with the Commission's and Member States opinion before the publication of the final infrastructure gaps reports.~~

## CHAPTER V

### OFFSHORE GRIDS FOR RENEWABLE INTEGRATION

#### Article 14

#### Offshore grid planning

1. By [31 July 2022], Member States, with the support of the Commission, within their specific priority offshore grid corridors, set out in point (2) of Annex I, taking into account the specificities and development in each region, shall [ ] agree to cooperate on [ ] offshore renewable generation to be deployed within each sea basin by 2050, with intermediate steps in 2030 and 2040, in view of their national energy and climate plans, the offshore renewable potential of each sea basin. [ ]

That **non-binding** agreement shall be made in writing as regards each sea basin linked to the territory of the Union. **The Commission will provide guidance for that work in the Regional Groups. That non-binding agreement shall be without prejudice of the Member States right to develop national projects on their territorial sea and exclusive economic zone.**

2. By [31 July 2023] the ENTSO for Electricity, with the involvement of the relevant TSOs, the national regulatory authorities, **the national competent authority at Member State level** and of the Commission and in line with the agreement referred to in paragraph 1, **shall include integrated offshore network and reinforcements in the Union-wide TYNDP taking into account environmental protection and other uses of the sea.** [ ]

3. **The integrated offshore network and reinforcements in the TYNDP shall ensure coherent development of onshore and offshore grid planning.**

4. [ ] **Where there is no TSO in a Member State, the references to TSOs throughout this article apply *mutatis mutandis* to DSOs.**

[ ]

[ ]

**Commented [AT14]:** Offshore grids are not directly relevant for AT – however, we welcome this new focus and appreciate that our joint comments (AT, CZ, DK, HU, IE, LU, SK) for onshore and offshore development were taken into account.

Article 15

Offshore grids for renewable energy cross-border cost sharing

1. [By 1 January 2024], the Commission shall, **together with the Member States and relevant TSO's and NRA's**, develop principles for a specific cost-benefit and cost-sharing methodology for the deployment of the integrated offshore network development plans **as defined in** Article 14(2) [ ] as part of the guidelines referred to in [Article 16(10)], **without prejudice to the application of Article 19 of Regulation (EU) 2019/943**. [ ]
2. [By 1 January 2025], [ ] the ENTSO for Electricity, with the involvement of the relevant TSOs, the national regulatory authorities and [ ] the Commission, shall present the results of the application of the **cost benefit and** cost-sharing methodology to the priority offshore grid corridors.
3. [By 1 July 2024 and then every two years], [ ] the [ ] Member States, shall update their written agreement referred to in Article 14(1) with the updated joint definition [ ] of the offshore renewable generation to be deployed within each sea basin in 2050, with intermediate steps in 2030 and 2040 [ ].
4. [ ] After the updated written agreements referred to in paragraph 3, for each sea basin, the ENTSO for Electricity shall update the [ ] **next Union TYNDP** [ ] as set out in Article 14(2) [ ].
5. Where there is no TSO in a Member State, the references to TSOs throughout this article apply *mutatis mutandis* to DSOs.

Formatted: Space After: 0 pt

## CHAPTER VI

### **REGULATORY FRAMEWORK**

#### *Article 16*

##### **Enabling investments with cross-border impacts**

1. The efficiently incurred investment costs, which excludes maintenance costs, related to a project of common interest falling under the categories set out in points (1)(a), (b), (c) and (e) of Annex II and projects of common interest falling under the category set out in point (3) of Annex II, where they fall under the competency of national regulatory authorities **in each Member State concerned**, shall be borne by the relevant TSO or the project promoters of the transmission infrastructure of the Member States which the project provides a net positive impact, and, to the extent not covered by congestion rents or other charges, be paid for by network users through tariffs for network access in that or those Member States.

2. The provisions of this Article shall apply to a project of common interest falling under the categories set out in points (1)(a), (b), (c) and (e) of Annex II where at least one project promoter requests the relevant national authorities their application for the costs of the project. [ ]

Projects falling under the category set out in points (1) (**d**) and (2) of Annex II may benefit from the provisions of this Article where at least one project promoter requests its application to the relevant national authorities.

Where a project has several project promoters, the relevant national regulatory authorities shall without delay request all project promoters to submit the investment request jointly in accordance with paragraph 3.

3. For a project of common interest to which paragraph 1 applies, the project promoters shall keep all relevant national regulatory authorities regularly informed, at least once per year, and until the project is commissioned, of the progress of that project and the identification of costs and impacts associated with it.

As soon as such a project of common interest has reached sufficient maturity, and is estimated to be ready to start the construction phase within the next 36 months, the project promoters, after having consulted the TSOs from the Member States which receive a significant net positive impact from it, shall submit an investment request. That investment request shall include a request for a cross-border cost allocation and shall be submitted to all the relevant national regulatory authorities concerned, accompanied by the following:

- (a) up-to-date project-specific cost-benefit analysis consistent with the methodology drawn up pursuant to Article 11 and taking into account benefits beyond the borders of the Member States on the territory of which the project is located by **considering at least the joint scenarios established for network development planning under article 12 [ ]**;
- (b) a business plan evaluating the financial viability of the project, including the chosen financing solution, and, for a project of common interest falling under the category referred to in point (3) of Annex II, the results of market testing;
- (c) where the project promoters agree, a substantiated proposal for a cross-border cost allocation.

Where a project is promoted by several project promoters, they shall submit their investment request jointly.

The national regulatory authorities shall, upon receipt, transmit to the Agency, without delay, a copy of each investment request, for information purposes.

The national regulatory authorities and the Agency shall preserve the confidentiality of commercially sensitive information.

4. Within six months of the date on which the last investment request is received by the ~~relevant~~ **concerned** national regulatory authorities, those national regulatory authorities shall, after consulting the project promoters concerned, take joint coordinated decisions on the allocation of **efficiently incurred** investment costs to be borne by each system operator for the project, as well as their inclusion in tariffs **or on the rejection of the investment request or of part of the project if the common analysis of national regulatory authorities concludes that the project or a part of it fails to provide a significant net benefit at EU level**. The national regulatory authorities shall include [ ] the **relevant** efficiently incurred investment costs in tariffs in line with the allocation of investment costs to be borne by each system operator for the project. [ ] In allocating the costs, the national regulatory authorities shall take into account actual or estimated:

- (a) congestion rents or other charges,
- (b) revenues stemming from the inter-transmission system operator compensation mechanism established under Article 49 of Regulation (EU) 2019/943.

The allocation of costs across borders shall take into account, the economic, social and environmental costs and benefits of the projects in the Member States concerned and the need to ensure a stable financing framework for the development of projects of common interest while minimising the need for financial support.

In allocating costs across borders, the relevant national regulatory authorities, in consultation with the TSOs concerned, shall seek a mutual agreement based on, but not limited to, the information specified in paragraphs 3(a) and (b). Their assessment shall **consider all relevant scenarios established under article 12 and other scenarios for network development planning, allowing a robust analysis of the contribution of the project of common interest to the Union energy policy targets of decarbonisation, market integration, competition, sustainability and security of supply** [ ].

Where a project of common interest mitigates negative externalities, such as loop flows, and that project of common interest is implemented in the Member State at the origin of the negative externality, such mitigation shall not be regarded as a cross-border benefit and shall therefore not constitute a basis for allocating costs to the TSO of the Member States affected by those negative externalities.

5. National regulatory authorities shall, on the basis of the cross-border cost allocation referred to in paragraph 4 of this Article, take into account actual costs incurred by a TSO or other project promoter as a result of the investments when fixing or approving tariffs in accordance with Article 59(1)(a) of Directive (EU) 2019/944 and Article 41(1)(a) of Directive 2009/73/EC, insofar as those costs correspond to those of an efficient and structurally comparable operator.

The cost allocation decision shall be notified, without delay, by the national regulatory authorities to the Agency, together with all the relevant information with respect to the decision. In particular, the cost allocation decision shall set out detailed reasons for the allocation of costs among Member States, including the following:

- (a) an evaluation of the identified impacts on each of the concerned Member States, including those concerning network tariffs;
- (b) an evaluation of the business plan referred to in paragraph 3(b);
- (c) regional or Union-wide positive externalities, such as **effective contribution to sustainability**, -security of supply, system flexibility [ ] or innovation, which the project would generate;
- (d) the result of the consultation of the project promoters concerned.

The cost allocation decision shall be published.

6. Where the relevant national regulatory authorities have not reached an agreement on the investment request within six months of the date on which the request was received by the last of the relevant national regulatory authorities, they shall inform the Agency without delay.

In that case or upon a **joint** request from [ ] the relevant national regulatory authorities, the decision on the investment request including cross-border cost allocation referred to in paragraph 3 [ ] shall be taken by the Agency within three months of the date of referral to the Agency.

Before taking such a decision, the Agency shall consult the relevant national regulatory authorities and the project promoters. The three-month period referred to in the second subparagraph may be extended by an additional period of two months where further information is sought by the Agency. That additional period shall begin on the day following receipt of the complete information.

The assessment of the Agency shall **consider all relevant scenarios established under article 12 and other scenarios for network development planning, allowing a robust analysis of the contribution of the project of common interest to the Union energy policy targets of decarbonisation, market integration, competition, sustainability and security of supply [ ]**.

The Agency shall leave the way investment costs are included in the tariffs in line with the cross-border cost allocation prescribed for the determination of the relevant national authorities at the moment of the implementation of the decision in accordance with national law.

The decision on the investment request including cross-border cost allocation shall be published. Articles 25(3), 28 and 29 of Regulation (EU) 2019/942 shall apply.

7. A copy of all cost allocation decisions, together with all the relevant information with respect to each decision, shall be notified, without delay, by the Agency to the Commission. That information may be submitted in aggregate form. The Commission shall preserve the confidentiality of commercially sensitive information.

8. Cost allocation decisions shall not affect the right of TSOs to apply and of national regulatory authorities to approve charges for access to networks in accordance with Article 6 of Directive (EU) 2019/944, Article 32 of Directive 2009/73/EC, Article 18(1) and 18(3) to (6) of Regulation (EU) 2019/943, and Article 13 of Regulation (EC) No 715/2009.

9. This Article shall not apply to projects of common interest which have received an exemption:

- (a) from Articles 32, 33 and 34 and Article 41(6), (8) and (10) of Directive 2009/73/EC pursuant to Article 36 of that Directive;
- (b) from Article 19(2) and (3) of Regulation (EU) 2019/943 or Articles 6, 59(7) and 60(1) of Directive (EU) 2019/944 pursuant to Article 63 of Regulation (EU) 2019/943;

(c) from unbundling or third party access rules pursuant to Article 64 of Regulation (EU) 2019/943 and Article 66 of Directive (EU) 2019/944 or

(d) pursuant to Article 17 of Regulation (EC) No 714/2009.

10. By [31 December 2022], the [ ] Agency shall adopt a **Recommendation to identify good practices for the treatment of investment requests for Projects of Common Interest. The recommendation shall be regularly updated as found necessary and for consistency with the principles** ~~Recommendation~~ [ ] on [ ] the offshore grids for renewable energy cross-border cost sharing as referred to in Article 15(1). [ ] In adopting or amending the **Recommendation, the Agency shall carry out and extensive consultation process, involving all relevant** [ ] stakeholders. [ ]

11. Projects of mutual interest shall be assimilated with projects of common interest and be eligible for cross-border cost allocation decisions for the part of the investment costs located on the territory of the Union or in countries applying the EU acquis and which have concluded an agreement with the Union.

12. Where there is no TSO in a Member State, the references to TSOs throughout this article apply *mutatis mutandis* to DSOs.

[article 17 was deleted]

**Commented [AT15]:** AT welcomes that Art 17 on Incentives was deleted – for our justification, see previous AT comments.

## CHAPTER VII

### FINANCING

#### Article 17 (ex article 18)

**Eligibility of projects for Union financial assistance under Regulation (EU)...** [on a Connecting Europe Facility as proposed by COM(2018)438]

1. Projects of common interest falling under the categories set out in Annex II are eligible for Union financial assistance in the form of grants for studies and financial instruments.
2. Projects of common interest falling under the categories set out in points (1)(a), (b), (c) and (e) of Annex II and point (3) of Annex II, [ ] are also eligible for Union financial assistance in the form of grants for works where they fulfil all of the following criteria:

(a) the project specific ~~cost-benefit analysis~~ **according to the cost benefit analysis methodologies in Article 11 pursuant to Article 16(3)(a)** provides evidence concerning the existence of significant positive externalities, such as ~~effective contribution to sustainability~~, security of supply, system flexibility [ ] or innovation;

(b) **the evidence listed in point (a) have been identified jointly by the concerned national regulatory authorities where the project falls under their competence, including via the project has received** a cross-border cost allocation decision pursuant to Article 16 **if adopted**

or, as regards projects of common interest falling under the category set out in point (3) of Annex II, where they do not fall under the competency of national regulatory authorities, and therefore they do not receive a cross-border cost allocation decision, the project aims at providing services across borders, bring technological innovation and ensure the safety of cross-border grid operation;

~~(c) the project is not commercially viable according to the business plan and other assessments carried out, in particular by potential investors or creditors or the national regulatory authority. The decision on incentives and its justification referred to in Article 17(2) shall be taken into account when assessing the project's commercial viability.~~

**c) (a) the implementation of the project may raise affordability issues according assessments carried out in particular by the national regulatory authority.**

**Commented [AT16]:** Here, we refer to our previous comments (and to further comments in writing). AT also welcomes that the commercial viability criterion was altered.

In addition, AT suggests to omit the CBCA requirement for CEF grants for works and replace it with a reasoned statement by NRAs.

**Commented [AT17]:** AT suggests to insert a reference to the CBA methodology in Art 11 as this important link should be established. Moreover, AT suggests an addition in a and b.

AT suggests to omit the CBCA (cross-border cost allocation) requirement for CEF grants for works. Instead, the CEF application could be complemented by a reasoned statement by the NRAs that the CBAs provided as part of the CEF have been scrutinized by the NRA, thus maintaining a high level of regulatory scrutiny without processing a CBCA. This is (inter alia) due to the fact that the CBCA procedure is seen as cumbersome by the project promoters and NRAs.

**Commented [AT18]:** See above – CBCA requirement should be omitted.

**Commented [AT19]:** Following what was said in EWP, the definition of commercial non-viability which is required to be eligible to the Union financial assistance should be altered – see new para (c a). This is due to the fact that regulated infrastructure projects are commercially viable as soon as they are integrated in the national network development plans in the regulated asset base and as the efficient costs are then covered. Instead, an assessment of affordability issues by the NRA could be included.

3. Projects of common interest carried out in accordance with the procedure referred to in Article 5(7)(d) shall also be eligible for Union financial assistance in the form of grants for works where they fulfil the criteria set out in paragraph 2 of this Article.

4. Projects of common interest falling under the categories set out in points (1)(d), (2) and (5) of Annex II shall also be eligible for Union financial assistance in the form of grants for works, where the concerned project promoters, **in an evaluation carried out by the relevant national authority or, where applicable, the national regulatory authority**, can clearly demonstrate significant positive externalities, such as ~~effective contribution to sustainability~~, security of supply, system flexibility, [ ] or innovation, generated by the projects and provide clear evidence of their lack of commercial viability, in accordance with the cost-benefit analysis, the business plan and assessments carried out, in particular by potential investors or creditors or, where applicable, a national regulatory authority.

5. **Projects of common interest in island territories where, due to their geographical situation, it is not feasible to demonstrate a physical cross-border impact, shall also be eligible for Union financial assistance in the form of grants for works, where the concerned project promoters can clearly demonstrate in an evaluation carried out by the national regulatory authority: significant positive externalities, such as effective contribution to sustainabilitysecurity of supply, system flexibility or innovation , generated by the projects and provide clear evidence of their lack of commercial viability, in accordance with the cost-benefit analysis, the business plan and assessments carried out, in particular by potential investors or creditors.**

**Commented [AT20]:** Here, on islands and cross-border impact, we would like to refer to AT comments made in Coreper 5 May 2021.

6. Projects of mutual interest shall be assimilated with projects of common interest and be eligible for Union financial assistance. Only the investments located on the territory of the Union which are part of the project of mutual interest, shall be eligible for Union financial assistance in the form of grants for works where they fulfil the criteria set out in paragraph 2, and where the cross-border cost allocation decision referred to in paragraph 2(b) allocates costs across borders for at least two Member States in a significant proportion in each Member State.

*Article **18** (ex article 19)*

**Guidance for the award criteria of Union financial assistance**

The specific criteria set out in Article 4(3) and the parameters set out in Article 4(5) shall apply for the purpose of establishing award criteria for Union financial assistance in in Regulation (EU)... [on a Connecting Europe Facility as proposed by COM(2018)438].

**Commented [AT21]:** As said in the EWP, for AT it is very important that in the future, it must be ensured that the CEF Regulation and the TEN-E Regulation are aligned. When developing a Delegated Act on the basis of the CEF Regulation for designing the selection process for the new “cross-border renewable energy (RES) projects”, coherence must be ensured and duplication needs to be avoided.



## CHAPTER VIII

### ***FINAL PROVISIONS***

*Article **19** (ex article 20)*

#### **Exercise of the delegation**

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Article 3 shall be conferred on the Commission for a period of seven years from [1 January 2022]. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the seven-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

3. The delegation of power referred to in Article 3 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

**Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.**

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

**Commented [AT22]:** In line with other AT proposals, we repeat that Union-wide groups should be defined in Annex I of the TEN-E Regulation. This would simplify the process and the Regulation.  
We welcome that there are no more Delegated Acts of the EC foreseen on scope and composition of the Regional groups.

5. A delegated act adopted pursuant to Article 3 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

**6. If the delegated act adopted by the Commission for a particular Union list cannot enter into force due to an objection expressed either by the European Parliament or the Council, the Commission shall immediately convene the Groups in order to draw up new regional lists taking into account the reasons for the objection. The Commission will adopt a new delegated act establishing the Union list of projects of common interest and projects of mutual interest as soon as possible.**

**Commented [AT23]:** AT takes note that the PCY wants to cater for the event where the PCI list is rejected and sees this as a valuable consideration.

**[article 21 was deleted]**

*Article 20 (ex article 22)*

**Reporting, and evaluation and review**

Not later than 31 December 2027, the Commission shall publish a report on the implementation of projects of common interest **and projects of mutual interest, taking into account their specificities**, and submit it to the European Parliament and the Council. **It shall be accompanied, if appropriate, by a legislative proposal to amend this Regulation.** That report shall provide an evaluation of:

**Commented [AT24]:** AT proposes to add a standard review clause in Art 22. This might also be useful with a view to the timeline for NECPS (national energy and climate plans timeline).

- (a) the progress achieved in the planning, development, construction and commissioning of projects of common interest **and projects of mutual interest, taking into account their specificities** selected pursuant to Article 3, and, where relevant, delays in implementation and other difficulties encountered;

(b) the funds engaged and disbursed by the Union for projects of common interest **and projects of mutual interest, taking into account their specificities**, compared to the total value of funded projects of common interest;

(c) the progress achieved in terms of integration of renewable energy sources **(including offshore)** and reduced greenhouse gas emissions through the planning, development, construction and commissioning of projects of common interest **and projects of mutual interest, taking into account their specificities (including offshore grids)** selected pursuant to Article 3;

[ ]

(d) *(ex point e)* for the electricity and **renewable or low carbon gases including** hydrogen sectors, the evolution of the interconnection level between Member States, the corresponding evolution of energy prices, as well as the number of network system failure events, their causes and related economic cost;

**Commented [AT25]:** AT would like to delete this addition and go back to the EC proposal, as pipelines for interconnection should be dedicated to hydrogen use only.

(e) *(ex point f)* the process of permit granting and public participation, in particular:

(i) the average and maximum total duration of the permit granting process for projects of common interest **and projects of mutual interest, taking into account their specificities**, including the duration of each step of the pre-application procedure, compared to the timing foreseen by the initial major milestones referred to in Article 10(5);

(ii) the level of opposition faced by projects of common interest **and projects of mutual interest, taking into account their specificities**, in particular the number of written objections during the public consultation process and the number of legal recourse actions;

(iii) an overview of best and innovative practices with regard to stakeholder involvement [ ];

**(iv) an overview of best and innovative practices with regard to mitigation of environmental impact, including climate adaptation, during permit granting processes and project implementation;**

**(v) (*ex point iv*) the effectiveness of the schemes foreseen in Article 8(3) regarding compliance with the time limits set out in Article 10;**

(g) regulatory treatment, in particular the number of projects of common interest having been granted a cross-border cost allocation decision pursuant to Article 16;

(i) (*integrated with point (g)*)

~~(ii) the number and type of projects of common interest which received specific incentives pursuant to Article 17;~~

(h) the effectiveness of this Regulation in contributing to the climate and energy targets for 2030, and, in the longer term, to the achievement of climate neutrality by 2050.

*Article 21 (*ex article 23*)*

#### **Information and publicity**

The Commission shall establish and maintain a transparency platform easily accessible to the general public through the internet. The platform shall be regularly updated with information from the reports referred to in Article 5(1) and the website referred to in Article 9(7). The platform shall contain the following information:

(a) general, updated information, including geographic information, for each project of common interest;

(b) the implementation plan as set out in Article 5(1) for each project of common interest **and projects of mutual interest, taking into account their specificities** presented in a manner that allows the assessment of the progress in implementation at any moment in time;

- (c) the main expected benefits and the costs of the projects except for any commercially sensitive information;
- (d) the Union list;
- (e) the funds allocated and disbursed by the Union for each project of common interest.
- (f) the links to the national manual of procedures mentioned in article 9;**
- (g) existing sea basin studies and plans for each priority offshore grid corridor, without affecting any intellectual property rights.**

*Article 22 (ex article 24)*

#### **Transitional provisions**

This Regulation shall not affect the granting, continuation or modification of financial assistance awarded by the Commission pursuant to Regulation (EU) No 1316/2013 of the European Parliament and of the Council<sup>1</sup>. **For projects of common interest in the permit granting process for which a project promoter has submitted an application file before 16 November 2013, the provisions of Chapter III shall not apply.**

#### **Article 23**

##### **Transitional period**

**1. During a transitional period, retrofited gas assets falling under the energy infrastructure category set out in point (3) of Annex II could be used for transport or storage of a pre-defined blend of hydrogen with natural gas or biomethane.**

**Commented [AT26]:** AT cannot support the new provisions in Art 23. Category (3) of Annex II should be designed for dedicated hydrogen infrastructure. The uptake of renewable (and low-carbon) gases is promoted through the category smart gas grids. There is no need for a transitional period for category (3).

<sup>1</sup> Regulation (EU) No 1316/2013 of the European Parliament and of the Council of 11 December 2013 establishing the Connecting Europe Facility, amending Regulation (EU) No 913/2010 and repealing Regulations (EC) No 680/2007 and (EC) No 67/2010, OJ L 348, 20.12.2013, p. 129

~~2. During the transitional period, the project promoters shall closely cooperate on project design and implementation in order to ensure interoperability of neighbouring networks.~~

~~3. This transitional period shall end five years after the date of entry into force of this Regulation.~~

Article 24 (ex article 25)

#### Amendment to Regulation (EC) No 715/2009

In Article 8(10) of Regulation (EC) No 715/2009, the first subparagraph is replaced by the following:

‘The ENTSO for Gas shall adopt and publish a Union-wide network development plan referred to in point (b) of paragraph 3 every two years. The Union-wide network development plan shall include the modelling of the integrated network, including hydrogen networks, scenario development, a European supply adequacy outlook and an assessment of the resilience of the system’.

**Commented [AT27]:** From an AT point of view, the TEN-E regulation should not preempt the regulatory framework on hydrogen. We see it critically that this competence is transferred to ENTSO-G without any further in-depth assessment of the regulatory framework for hydrogen. As a minimum, it should be clearly shown that the involvement of ENTSO-Gs planning activity in the H2 area is  
- firstly interim and  
- secondly, with the involvement of other hydrogen actors and ACER ("with the participation and close cooperation of hydrogen project promoters and the Agency").

Article 25 (ex article 26)

#### Amendment to Directive 2009/73/EC

In Article 41(1) of Directive 2009/73/EC, point (v) is added:

‘(v) carry out the obligations laid out in Articles 3, 5(7), Articles 14, 15, 16 and Article 17 of [the TEN-E Regulation as proposed by COM(2020)824];’

*Article 26 (ex article 27)*

**Amendment to Directive (EU) 2019/944**

In Article 59(1) of Directive (EU) 2019/944, point (zz) is added:

‘(zz) carry out the obligations laid out in Articles 3, 5 (7), Articles 14, 15, 16 and ~~Article 17~~ of [the TEN-E Regulation as proposed by COM(2020)824];’

*Article 27 (ex article 28)*

**Amendment to Regulation (EU) 2019/943**

The first sentence of Article 48 of Regulation (EC) 2019/943 is replaced by the following:

‘The Union-wide network development plan referred to under point (b) of Article 30(1) shall include the modelling of the integrated network, including scenario development and an assessment of the resilience of the system. **Relevant input parameters for the modelling such as assumptions on fuel and carbon prices or installation of renewables** it shall be fully consistent with the European resource adequacy assessment developed pursuant to Article 23.

*Article 28 (ex article 29)*

**Amendment to Regulation (EU) 2019/942**

Points (c) and (d) of Article 11 of Regulation (EU) 2019/942 are replaced by the following:

(c) carry out the obligations laid out in Articles 5, Articles 11(2), 11(8), 11(9), 11(10), Articles 12, 13 and ~~Article 17(5)~~ and in point (12) **of Section 2** of Annex III of [the TEN-E Regulation as proposed by COM(2020)824];

(d) take decisions on approving incremental changes to cost-benefit analysis methodologies pursuant to Article 11(6) and on investment requests including cross-border cost allocation pursuant to Article 16(6) of [TEN-E Regulation as proposed by COM(2020)824].

*Article 29 (ex article 30)*

**Repeal**

Regulation (EU) No 347/2013 is repealed from [1 January 2022]. No rights shall arise under the present Regulation for projects listed in the Annexes to Regulation (EU) 347/2013.

*Article **30** (ex article 31)*

**Entry into force**

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

It shall apply from [1 January 2022].

## ANNEX V

### **ENERGY SYSTEM-WIDE COST-BENEFIT ANALYSIS**

The CBA methodologies developed by the ENTSO for Electricity and the ENTSO for Gas [ ] **and the entities with assigned responsibilities according to paragraph 7 of Article 11** should be consistent, whilst taking into account sectorial specificities. The methodology for a harmonised and transparent energy system-wide cost-benefit analysis for projects of common interest and for projects of mutual interest shall be uniform for all [ ] infrastructure categories, unless specific elements are justified. They shall address costs in the broader sense (including externalities) in view of the Union's objectives, in particular the 2030 climate and energy targets and the climate neutrality objective by 2050 and shall satisfy the following principles.

(1) the area for the analysis of an individual project shall cover all Member States and third countries, on whose territory the project is located, all directly neighbouring Member States and all other Member States significantly impacted by the project. For this purpose, ENTSO for electricity, ~~and~~ ENTSO for gas **and the entities with assigned responsibilities according to paragraph 7 of Article 11** shall cooperate with all the relevant system operators in the relevant third countries. In the case of projects falling under the category set out at point(3) of Annex II, the ENTSO for electricity and the ENTSO for gas shall cooperate with the project promoter also where it is not a system operator.

(2) each cost-benefit analysis shall include **sensitivity analyses** concerning the input data set, including generation and greenhouse gases costs as well as ~~the level of the expected development of demand-side response and supply, (including renewable energies and power-to-gas), including the flexibility of both, and the availability of storage~~, the commissioning date of different projects in the same area of analysis, **climate impacts** and other relevant parameters.

(3) it shall define the analysis to be carried out, based on the relevant multi-sectorial input data set by determining the impacts with and without each project **and include the relevant interdependencies with other projects.**

**Commented [AT28]:** Throughout this annex, the "entities responsible for developing the methodologies" set out in points (1) (b), 1 (d), (2), (4), and (5) of Annex II, as mentioned above in Art 11 para 7, should be added for the sake of clarification and consistency.

**Commented [AT29]:** AT welcomes this addition on sensitivity analyses including renewable energies, but as in EWP, AT suggests further adding power-to-gas as these parameters are critical and shall be systematically subject to a sensitivity analysis.

**Formatted:** Font: Italic, Highlight

(4) it shall give guidance for the development and use of network, [ ] market **and socio-economic** modelling necessary for the cost-benefit analysis. The modelling shall allow for a full assessment of economic, including market integration, security of supply and competition, **as well as lifting energy isolation**, social and environmental and climate impacts, including the cross-sectorial impacts. The methodology shall **be fully transparent** **to third parties** ~~to third parties and~~ including details on why, what and how each of the benefits and costs are calculated.

**Commented [AT30]:** AT asks to revert to the previous wording of being “fully transparent to third parties”. This would correspond to Art 12 para 8.

**4a (new):** **it shall adhere to the principle of ‘do no significant harm’ referred to in point (17) of Article 2 of Regulation (EU) 2019/2088 and contribute to avoid environmentally harmful lock-in effects.**

**Commented [AT31]:** As in the EWP, AT suggests that as a new principle for the CBA in point 4), the „do no significant harm“-principle should be anchored in the Regulation – this would also improve consistency as it is also mentioned in the articles before.

(5) it shall include and explain how the energy efficiency first principle is implemented in all the steps of the ten-Year Network Development Plans.

**(6) it shall explain that ~~the~~ development and deployment of renewable energies will *by no means* ~~not~~ be hampered by the project.**

**Formatted:** Font: Italic, Highlight

(7) (*ex point 6*) it shall ensure that the Member States on which the project has net positive impacts, the beneficiaries, and the Member States on which the project has a net negative impact – **which are not necessarily part of the proposing Member States** –, the cost bearers, are identified.

**Commented [AT32]:** This addition is seen critically because actually, the increase of renewable energies seems to be a goal of the Regulation, so explaining why the deployment of renewable energies is not hampered seems questionable. This should be deleted. If not, we suggest other wording, saying that “development and deployment of renewable energies will *by no means* be hampered by the project”.

(8) (*ex point 7*) it shall, at least, take into account the capital expenditure, operational and maintenance expenditure costs **as well as the costs induced for the related system** over the [ ] **technical** lifecycle of the project **as a whole such as** [ ] decommissioning and waste management costs, **including external costs** [ ] **taking into account the whole life cycle of any infrastructure involved**. The methodology shall give guidance on discount rates, [ ] **technical** lifetime and residual value to be used for the cost- benefit calculations. **It shall furthermore include a mandatory Benefit-to-Cost ratio and the Net Present Value**, as well as a differentiation of benefits according to the level of reliability of their estimation methods. Quantitative benefits regarding the **climate and environmental impact of the projects and the contribution to EU energy targets , such as renewable penetrations, energy efficiency and interconnections** shall also be taken into account.

**Commented [AT33]:** What would be practical implications and rationale for this addition?

(9) (*ex point 8*) it shall ensure that the climate adaptation measures taken for each project are assessed and reflect the cost of greenhouse gas emissions **used for the assessment is robust and consistent** [ ] with other Union policies **in order to enable comparison with other solutions which do not require new infrastructures**.

**Commented [AT34]:** AT suggests to consider the whole lifecycle of infrastructure.

**Commented [AT35]:** Why was “assessment” lifetime deleted and instead it is “technical” lifetime?

**Formatted:** Font: Italic



**Note from the Presidency: The deadline for comments is:**

- **May 6<sup>th</sup>** for articles 1-3 and Annexes I, II and III;
- **May 11<sup>th</sup>** for articles 4-10 and Annexes IV and VI;
- **May 13<sup>th</sup>** for articles 11-31 and Annex V.

---